

VILLAGE OF CROTON ON HUDSON, NEW YORK
ZONING BOARD OF APPEALS MINUTES
WEDNESDAY, NOVEMBER 10, 2010

PRESENT: Seth Davis, Chairperson
Alan J. Macdonald
Rhoda Stephens
Doug Olcott

ABSENT: Roseann Schuyler

ALSO PRESENT: Joe Sperber, Assistant Building Inspector

1. CALL TO ORDER:

Chairman Seth Davis called to order the regular Zoning Board of Appeals meeting of November 10, 2010 at 8:00 p.m. Mr. Davis requested a moment of silence in memory of Kathleen Reidy, previous ZBA chairperson, who recently passed away.

Mr. Davis welcomed temporary new Zoning Board secretary, Ronnie Rose.

Chairman Davis indicated that tonight, if possible, the board would take votes on the appeals as they appear on the agenda rather than wait to vote at the end of the meeting. One of the board members had a time constraint for this evening.

2. PUBLIC HEARINGS

a) Mr. Mark Bell, of 3 Mountain Trail (Section 68.13 Block 2 Lot 20) – Application for a request for variance with respect to Village Code Section 230-33(A) related to a front yard setback with respect to rebuilding and expanding existing deck.

Mr. Mark Bell, of 3 Mountain Trail, was asked to present his application and explain why he needed a variance. Mr. Bell explained that he is redoing his existing deck because it has come to the end of its “useful life.” He wants to add a small extension to the deck. Because there is an established garden bed by the deck, the applicants are limited to how far they can go with a deck extension. Mr. Bell explained that they were just adding about a foot and half to the front of the deck, but the setback would remain the same. The real change was that the deck dimensions were different than what they had been. This would allow for more usable space—essentially, a small bump out. It was their understanding that changing the dimensions of the existing deck required a variance.

The Board members discussed the history of this property with regard to previous applications for variances going back to 1981. Joe Sperber, Assistant Building Inspector, elaborated on the history of the property and the variances granted. On June 10, 1981, a variance was granted for a lot area and front yard setback. The front yard setbacks were 20 feet as opposed to the 40 feet required; that is, the front yard setbacks were less than

the required setbacks for a corner lot. The proposed single family residence did not meet the required zoning requirements but the variance was granted because the consensus of the Board at the time was that the proposed house would have “minimum impact on the use of the road because of its location” and “the improvements would eliminate what was a littered lot.” The variance was granted subject to conditions that “the house not be more than 30 x 50 feet, that the setback of each front yard be not less than 20 feet, and that the rear yard setback be not less than 20 feet.” On July 15, 1985 a reinstatement of the 1981 variance was approved.

In 1987, a deck was built which had violated the variance. However, there had been a resolution to grant a variance to reduce the setback requirement on the Mt. Airy side of the lot to 10 ft., with the condition that vehicular access to Mt. Airy Road be blocked. In summary, 20 ft. was granted by the June 1981 variance, and 10 ft was granted by the October 1987 variance.

Seth Davis questioned why another variance would be needed.

Mr. Bell said that even though the setback was the same, by changing dimensions of the deck they were under the assumption they would have to meet the 40 ft setback and get a variance. Joe Sperber suggested that the Zoning Board is free to make the interpretation that a variance is not needed. The Mt Airy side has a variance for 10 feet and Mountain Trail has a variance for 20 feet. Seth Davis said that the deck was not affecting the variance that had previously been granted in 1981 and 1987.

Seth Davis, Doug Olcott and Rhoda Stephens concurred that a variance was not needed since the property already had a variance.

Seth Davis said it was important to leave a record of this recent decision so that Bell is protected in the future. On review of resolutions 06/81 and 10/87 in which variances were granted on those dates, the current 2010 request for a variance is not necessary. Mr. Bell only needs to apply for a building permit to build his deck.

- a. **John and Kathleen Ghegan, of 54 Young Avenue** (Section 79.13 Block 1 Lot 43)—Application for a variance with respect to Village Code 230-33 (A) related to a front yard variance with respect to a proposed vestibule.

Applicants John and Kathleen Ghegan, of 54 Young Avenue, presented their application. Mr. Ghegan stated he wants to build a front vestibule measuring 8 ft by 6.5 ft. in the front yard setback. The proposed addition would be 1.7 ft. within front yard setback. The reason for this vestibule is to create an airlock so that the cold air does not rush into the house.

Doug Olcott asked for clarification on the amount of variance with regard to the plans because the proposed setback actually is 2 ft 3 inches not the 1.7 feet as written. The

architect, John Power, apologized for the error and stated that, in fact, the proposed variance request is 2 ft 3 inches.

Seth Davis opened the floor to public comments. There were no comments from the audience, and Seth Davis confirmed with the Secretary and Joe Sperber that the Village had not received any comments in writing regarding this application.

The public hearing portion for this application was then closed, and comments were sought from the committee members. Seth Davis presented the motion to grant a 2 ft. 3 inch front yard variance for the proposed construction of a vestibule of the front porch area of 54 Young Avenue. The motion was seconded by Alan Macdonald and then put to a vote. The vote was 4 in favor and 0 against. There were no conditions put on this variance.

- c) John and Stacey Herron, of 49 Irving Avenue** (Section 79.05 Block 4 Lot 54)—Application for a request for variance with respect to Village Code Section 230-33 (A) related to total side yards for a construction of a second story addition.

The third applicant, Stacey and John Herron, of 49 Irving Avenue, requested a variance to build a second story, from a one and a half story, addition that matches a non-conforming side yard encroachment of the existing first story. Relief sought is for 1.24 ft. on north side of the plot.

Seth Davis requested details regarding why they needed a variance. Mr. Powers said the house was built in 1957 and therefore complied with the Zoning Code of 1931 in which setbacks of 8 feet were required on both sides of the house. The existing house only has 10 feet 9 inches on one side, and the other side has 8 feet, which is short of the 20 ft required by the current zoning code. The applicants were requesting a variance of 1.25 feet in order to comply with the current code. The proposed second floor would be non-conforming with the first floor. At present, the upstairs of the house has two rooms, a landing, and a bathroom. The applicants want to make the bedrooms full height, and add another room--adding an additional 400 square feet in total.

Rhoda Stephens asked about the purpose of the addition and the applicants indicated that they needed more space in the house because their children are now older and need more space. When asked if there was any other way to achieve this, the applicants stated that the renovation could not be done in any other financially feasible way in order to get the extra space.

The architect, John Powers, said that because this cape has a staircase that transverses the length of the house rather than going up the usual width of the house—it had been difficult to plan a renovation. The bedrooms are not the average size—they are on the small end.

Any other compromise would have been an economic hardship. The footprint of the house is actually quite small.

Doug Olcott asked if the height of the house is increasing and Alan Macdonald questioned the architect about the steep pitched roof that was planned. Mr. Powers explained that the pitch of the roof as shown on the plans would add storage possibility. By going the maximum pitch, it would allow for attic space which many of the homes on the street have (with pull down attic stairs) because there is no real storage area in these homes. The basement is not always the best place to store certain items. The house does not have a big footprint--in fact it is quite small-- even though it looks tall. Mr. Powers also maintained certain aesthetics will be considered—for example, the attic will have no windows except possibly for the window on the far side of the gable to let in some natural light. The architect felt the design of the house had a desirable Victorian touch to it and was consistent with the neighboring homes.

Rhoda Stephens asked if there would be any heat in the attic to which the architect and applicant replied that there would not.

There was some further discussion about the variance amount and the applicants reiterated the fact that they were staying within the footprint of the house. The deck and the shrubbery would not be disturbed.

The application was then open to the public for comments. Mr. and Mrs. Stehlin, of 79 Radnor Avenue, asked about the amount of square footage the Herrons would be adding. Mrs. Stehlin said she did not understand the legal notice that she had received and requested clarification on what it meant by “request for variance with respect to both side yards.” The applicant explained that the sides of the house needed a total of 20 ft to conform to the current zoning code.

Mr. Davis explained that the house was built before the code was changed, but the variance requested had nothing to do with the square footage of the house. Mr. John Giglio , of 50 Emerson Avenue, said he had no problems with the plans.

The public portion of the hearing was closed and there were no further comments from the board about this application.

A motion was made by Rhoda Stephens to grant the 1 foot 3 inch variance of the total side yard. Alan Macdonald seconded the motion. Mr. Davis was satisfied that neither side yard requirements were affected. The vote was taken with 4 in favor and 0 against.

d) Poritzky Associates Ltd. Partnership, Albany Post Road (Section 67.10 Block 2 Lot 14)— Adjournment from 10/13/2010 meeting. Request to withdraw application.

Zoning Board of Appeals Meeting

November 10, 2010

Page 5

The remaining item on the agenda was the withdrawal of the Poritzky application. The record will note that Mr. Herman Poritzky of Albany Post Road withdrew his application to the Zoning Board of Appeals.

3. APPROVAL OF MINUTES

Lastly, Mr. Davis said that it was not going to be necessary to change any of the ZBA meeting schedules as originally thought, and that the regularly scheduled February and March meetings would remain on the second Wednesday of the month.

The Zoning Board minutes of the October 13, 2010 meeting were approved. Doug Olcott made a motion to approve the minutes. All were in favor to approve. There was a motion to adjourn. The meeting was adjourned at 8:58 p.m.

Respectfully submitted,

Ronnie L. Rose

Acting Zoning Board Secretary

11/10/2010

RESOLUTION

Mark Bell has applied to the **Zoning Board of Appeals** of the Village of Croton-on-Hudson, for a request for variance with respect to Village Code Section 230-33 (A) related to a front yard setback with respect to rebuilding and expanding existing deck.

The property, at **3 Mountain Trail**, is located in a RA-25 District and is designated on the Tax Maps of the Village as **Section 68.13 Block 2 Lot 20**.

A public hearing having been held after due notice, this Board from the application and after viewing the premises and neighborhood concerned, finds that a variance was not required. The Zoning Board variances granted in 1981 and 1987 are still in effect and would not be affected. Applicant only needs to apply for a building permit to change the dimensions of the existing deck.

NOW, THEREFORE, BE IT RESOLVED, that a variance was not required as follows:

Mr. Olcott made the motion that a variance was not required. The Zoning Board variances granted in 1981 and 1987 are still in effect and would not be affected. Applicant only needs to apply for a building permit to change the dimensions of the existing deck.

Mr. Davis seconded the motion.

Vote: 4-0
In favor: Davis, Macdonald, Olcott, Stephens
Abstain: Schuyler

Date: November 10, 2010

According to Section 230-164 (E)), "Unless work is commenced and diligently prosecuted within one (1) year of the date of the granting of a variance or special permit, such variance or special permit shall become null and void.

RESOLUTION

John and Stacey Herron have applied to the **Zoning Board of Appeals** of the Village of Croton-on-Hudson, for a request for variance with respect to Village Code Section 230-33 (A) related to total side yards.

The property, at 49 Irving Avenue, is located in a RA-5 District and is designated on the Tax Maps of the Village as Section 79.05 Block 4 Lot 54.

A public hearing having been held after due notice, this Board from the application and after viewing the premises and neighborhood concerned, finds:

1. The house constructed in 1957, under the 1931 Zoning regulations, does not meet standards of present Zoning Code. A 1 ft. 3 in. variance would bring them into compliance.
2. No undesirable change in the character of the neighborhood nor detriment to nearby properties will be produced by the granting of the variance;
3. The benefit sought by the applicant cannot be achieved by a method other than the requested variance;
4. The requested variance is not substantial;
5. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

NOW, THEREFORE, BE IT RESOLVED, that the application is hereby ****Granted** as follows:

Ms. Stephens made the motion to grant the 1 ft 3 inch variance of the total side yard for a construction of a second story addition.

Mr. Macdonald seconded the motion.

Vote: 4-0
In favor: Davis, Macdonald, Olcott, Stephens
Absent: Schuyler
Conditions: None

Date: November 10, 2010

According to Section 230-164 (E)), "Unless work is commenced and diligently prosecuted within one (1) year of the date of the granting of a variance or special permit, such variance or special permit shall become null and void.

RESOLUTION

John and Kathleen Ghegan have applied to the **Zoning Board of Appeals** of the Village of Croton-on-Hudson, for a request for variance with respect to Village Code 230-33 (A) related to a front yard setback.

The property, at 54 Young Avenue, is located in a RA-5 District and is designated on the Tax Maps of the Village as Section 79.13 Block 1 Lot 43.

A public hearing having been held after due notice, this Board from the application and after viewing the premises and neighborhood concerned, finds:

1. No undesirable change in the character of the neighborhood nor detriment to nearby properties will be produced by the granting of the variance;
2. The benefit sought by the applicant cannot be achieved by a method other than the requested variance;
3. The requested variance is not substantial;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

NOW, THEREFORE, BE IT RESOLVED, that the application is hereby ****Granted** as follows:

Mr. Davis made the motion to grant a 2.25 foot variance for the construction of an 8 ft by 6.5 ft front vestibule.

Mr. Macdonald: Second the motion.

Vote: 4 - 0
In favor: Davis, Macdonald, Olcott, Stephens
Abstain: Schuyler
Conditions: None

Date: November 10, 2010

According to Section 230-164 (E)), "Unless work is commenced and diligently prosecuted within one (1) year of the date of the granting of a variance or special permit, such variance or special permit shall become null and void.